

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

JIMMY DAVIS  
VS. CIVIL ACTION NO. 5:21-cv-43-DCB-BWR  
COMMISSIONER BURL CAIN, et al. DEFENDANTS

ORDER

THIS MATTER is before the Court on Magistrate Judge Rath's Report & Recommendation ("R&R") [ECF No. 63], concerning Defendants' Motion to Dismiss or, Alternatively, for Summary Judgment [ECF No. 55] ("Motion"). The R&R was entered on February 1, 2023, and objections to it were due by February 15, 2023. No party has filed an objection, and the time to do so has elapsed.

Judge Rath recommended that the Court grant in part Defendants' Motion, revoke Plaintiff Jimmy Davis's ("Plaintiff") IFP status, and dismiss this case without prejudice pending Plaintiff's payment of the requisite fee or satisfaction of the conditions found in Davis v. Wyatt, et al., No. 5:21-8-RHWR (S.D. Miss. Nov. 18, 2021) (ECF No. 60): "[E]ffective immediately, and until further Order of the Court, the Clerk of the Court shall decline to accept and file any civil rights complaint submitted pro se be Jimmy Lee Davis unless the

complaint has first been presented to a judge of this Court, who has specifically authorized the filing."

Judge Rath justifies his decision to revoke Plaintiff's IFP status because Plaintiff already had at least three qualifying dismissals under § 1915(g) when he filed his Complaint, and his allegations fail to meet the imminent-danger exception. [ECF No. 63] at 6. Citing Plaintiff's demonstrated history of litigation abuse, Judge Rath further recommended that Plaintiff's case be dismissed pending payment of the requisite filing fee or satisfaction of the conditions set out in Davis v. Wyatt, et al. Id. at 6-7.

After conducting a de novo review of the R&R, the Court agrees with Judge Rath's recommendation. Accordingly, the R&R is ADOPTED. Plaintiff's claims against Defendants are hereby DISMISSED without prejudice, Defendants' Motion is GRANTED IN PART, and Plaintiff's IFP status is REVOKED.

A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this 7th day of March, 2023.

/s/ David Bramlette  
DAVID C. BRAMLETTE  
UNITED STATES DISTRICT JUDGE